

SALE, LEASE AND OTHER HANDLING OF PUBLIC
SCHOOL LANDS.

H. B. No. 358.]

CHAPTER 271.

An Act to regulate the sale and lease of lands set apart for the benefit of the public free school fund, and to set apart certain areas for the public free school fund, and to provide for the disposition and sale of minerals contained in all islands, salt waters, lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school lands, both surveyed and unsurveyed; providing for prospecting for gold, silver, platinum, cinnabar and other metallic ores and precious stones, and the lease of lands therefor; providing for the disposition of the proceeds from such sales and leases; providing for interest upon past due interest; providing for the issuance of muniments of title; providing for the issuance of patents on certain headright, homestead, pre-emption and script surveys; prescribing preferences and forfeitures, defining surveyed and unsurveyed land; providing generally the method and means for the sale of public school lands, and the lease and development of the public school lands and coastal areas; repealing Articles 5323, 5338 and 5374, and all laws and parts of laws in conflict herewith, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. All lands heretofore set apart to the public free school funds under the Constitution and laws of Texas, and all of the unappropriated and unsold public domain remaining in this State of whatever character, except river beds, and channels, and islands, lakes and bays, and other areas within tide water limits, are subject to control and sale under the provisions of this Act.

SEC. 2. Surveyed public free school land may be sold by the Commissioner on the first day of any month to the person offering the highest price for it after the same has been advertised for sale in accordance with this Act and the provisions of subdivision 2 of Chapter 3, Title 86, Revised Civil Statutes, 1925, relating to school land, provided that all such land within five miles of a well producing oil or gas in commercial quantities shall be subject to lease only, and the surface rights shall not be sold.

SEC. 3. Surveyed lands within the terms of this Act is defined to be all tracts or parts of tracts heretofore surveyed either on the ground or by protraction, and set apart for the public school funds and which is unsold, and for which field notes are on file in the General Land Office or which may be delineated on the maps of said office as such, and unsurveyed land is defined to be all areas not included in surveys on file in the General Land Office or surveys delineated on the maps thereof.

SEC. 4. All land shall be sold without condition of settlement and with a reservation of one-sixteenth ($1/16$) of all minerals, as a free royalty to the State, which two conditions shall be expressed in the application to purchase and in the notice of

award, the minimum price to be fixed by the Commissioner and in no case to be less than one dollar (\$1) an acre. Provided, that one-eighth ($1/8$) of all sulphur and other mineral substances from which sulphur may be derived or produced shall be reserved as a free royalty to the State.

SEC. 5. Any headright survey, homestead donation, pre-emption survey, scrip survey or other survey heretofore awarded or sold, which survey has been held and claimed in good faith by any party for a period of ten years prior to the date of application for patent and which surveys cannot be patented under existing laws, may be patented on payment of one dollar (\$1) an acre to the Land Commissioner. In such cases the patent shall be issued to the owner now of record in the General Land Office and inure distributively to the true and lawful owners of the land, provided that in all cases where a tract of school land has been occupied by mistake as a part of another tract, such occupant shall have a preference right for a period of six months after the discovery of the mistake, or after the passage of this Act, to purchase the land at the same price paid or contracted to be paid for the land actually conveyed to him.

SEC. 6. Any one desiring to buy any of the unsurveyed land included in this Act not situated within five miles of a producing oil or gas well shall file with the county surveyor of the county in which the land may be situated, an application for survey describing the land in such manner as will enable the surveyor to identify it and pay the surveyor a fee of one dollar (\$1) for filing and recording said application and also deposit with him such sum of money as will pay for citing the claimant or claimants of the land, if any, and the adjoining owners as the tax rolls may disclose the names of such claimants or adjoining owners. The surveyor using the forms prescribed by the General Land Office, shall immediately send by registered mail or hand to each claimant or adjoining owner a citation containing a description of the land sought to be surveyed and fix a date for survey. The survey shall be made and the field notes filed in the Land Office within one hundred and twenty (120) days from the filing of the application with the surveyor. If the area is found by the Commissioner to be unsurveyed and subject to sale, he shall value the land and give notice of the valuation to the applicant who may purchase the land on the same terms and conditions as prescribed by the law and the regulations for the sale of surveyed land; provided, if the area should be in the enclosure of another person claiming it in good faith, or occupied as a home by another, such holder or occupant shall have a preference right for a period of sixty (60) days after service of citation to have the land surveyed on his own application to the surveyor and on the return of the sum advanced by the first applicant for citation, and thereupon fix his right to purchase as herein provided, and in cases where a survey has been made in accordance with Article 5323, Revised Civil Statutes of 1925, and the field notes returned to the Land Office

prior to August 10, 1929, the Commissioner is authorized and required to examine the field notes and if found to be correct and the land subject to sale, he shall value the same and give notice of such valuation to the applicant, and in cases where the field notes had been approved and the land valued and the applicant failed to file his application in the Land Office prior to August 10, 1929, he may do so within ninety (90) days from the passage of this Act and receive an award. All applications to purchase, except where otherwise provided, must be filed in the General Land Office within sixty (60) days from the date of the notice of valuation. All applications filed with the Land Commissioner subsequent to June 1, 1927, and prior to October 10, 1929, expressing a desire to purchase unsurveyed public school land, where the official map of the Land Office shows the area applied for not to be included within the boundaries of any previous survey, and an answer that no vacancy existed has been given by the Land Office, are hereby recognized, and all rights thereunder preserved, and the applicant may have the land surveyed by an authorized surveyor of the State. The survey shall be made, and the field notes, together with plat and a report of the surveyor, shall be filed in the Land Office within ninety (90) days after this Act takes effect, and proceeding shall then be had in accordance with the provisions of law in force at the time of the filing of his application of inquiry with the Land Commissioner.

SEC. 7. From and after the passage of this Act all unpaid and delinquent interest on sales of public school land, and annually on November 1st. of each year as it becomes delinquent all unpaid interest on public school land sales shall bear interest at the rate of five (5) per cent, compounded annually as it accrues on November 1st. of each year; and no patent shall be issued upon any land until all compounded interest shall be paid to the time of issuing patent.

SEC. 8. Lands Subject to Lease.—All islands, salt water lakes, bays, inlets, marshes and reefs owned by the State within tide water limits, and that portion of the Gulf of Mexico within the jurisdiction of Texas, and all unsold public free school land, both surveyed and unsurveyed, shall be subject to lease by the Commissioner to any person, firm or corporation for the production of the minerals, except gold, silver, platinum, cinnabar and other metals, that may be thereon or thereunder, in accordance with the provisions of this Act and subdivision 2, Chapter 4, Title 86, Revised Statutes of 1925, relating to leasing public areas, in so far as same is not in conflict herewith.

Any person who discovers an unsurveyed area of school land which has not been listed on the records of the Land Office as school land, and is not in actual conflict on the ground with land previously sold or appropriated and which appears on the official Land Office map as unsurveyed land, may apply in writing to the county surveyor and have the same surveyed, and after the field notes thereof have been returned to the Land Office

and approved and filed with the Land Commissioner, shall have a preference right for sixty (60) days thereafter to purchase a mineral lease thereon at the minimum price fixed by the Land Commissioner, in addition to the other consideration provided herein.

SEC. 9. Notice for Bids.—The Commissioner shall fix the minimum price of not less than one dollar (\$1) per acre to be paid, and the day and hour when an area or areas will be subject to lease, and advertise or readvertise such areas at least thirty (30) days before such lease date, except as provided in case of tie bids, under Article 5356 of the Revised Statutes of 1925. The Commissioner may give such notice by distributing printed lists as provided for sales of surface rights of public lands.

SEC. 10. Terms of Lease.—The areas included herein shall be leased for a consideration, in addition to the cash amount bid therefor, of not less than one-eighth ($1/8$) of the gross production of oil, or the value of same, that may be produced and saved, and not less than one-eighth ($1/8$) of the gross production of gas, or the value of same, and not less than one-eighth ($1/8$) of the gross production of sulphur, or the value of same that may be produced, that may be produced and sold off the area, and not less than one-sixteenth ($1/16$) of the value of all other minerals that may be produced, and an additional sum of twenty-five cents an acre per year for each year thereafter until production is secured. When production has been secured in commercial quantities and the payment of royalty begins and continues to be paid, the owner shall be exempt from further annual rental payments on the acreage. The provisions of this article in respect to payments of rental after production and the cessation of production shall apply to leases heretofore issued by the State on any area except lands belonging to the State University and eleemosynary institutions. If production should cease and royalty not be paid, the owner of the lease shall, at the end of the lease year in which the royalty ceased to be paid and annually thereafter in advance, pay twenty-five cents per acre so long as such owner may desire to maintain the rights acquired under the lease, not to exceed five (5) years from the date of said lease.

SEC. 11. All payments received by the Commissioner of the General Land Office shall be transmitted to the State Treasurer to be credited to the proper funds. All payments for land and for mineral leases and rental thereon, and for royalties on minerals produced, shall be credited to the permanent school fund, and all interest collected hereunder shall be credited to the available school fund. Payments received on purchase price of a tract of land shall be credited to the permanent school fund, and all payments of interest and rentals shall be credited to the available school fund; and all payments constituting the purchase price of a lease for minerals shall be transmitted to the State Treasurer to the credit of the permanent school fund, and like-

wise all payments of royalty received from minerals sold under leases, as well as all rentals, shall be credited to the permanent school fund.

SEC. 12. Any person or corporation desiring to prospect a tract of land or a part of a tract belonging to the State for gold, silver, platinum, cinnabar and other metallic ores and precious stones may file an application with the Commissioner of the Land Office designating the area to be prospected, and such applicant shall have a period of one year from date of filing such application within which to prospect the area designated. Within the period of said year he may file an application to lease the area designated for the purpose of mining gold, silver, platinum, cinnabar and other metallic ores and precious stones and remit fifty cents an acre as first annual payment of rental on the lease and continue to make such payments from year to year for a period of five (5) years, unless some of the minerals mentioned herein shall be discovered sooner in paying quantities. On discovery of any of such minerals, the payments of such rental shall cease. On the twentieth (20) day of each month the owner of the mine or mines shall pay the royalty due the State, which shall be one-sixteenth ($1/16$) of the value of the minerals sold or moved off the premises. Such payments shall be remitted to the Commissioner of the General Land Office and credited to the account of the permanent school fund. The leases shall be drawn and the mines operated in accordance with regulations prescribed by the Governor, Attorney General and Commissioner of the General Land Office.

SEC. 13. That Articles 5323, 5338 and 5374, Revised Civil Statutes, 1925, and all others laws or parts of laws in conflict herewith are hereby repealed.

SEC. 14. That the importance of this legislation creates an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each House be suspended, and the same is hereby suspended, and that this Act shall take effect and be in force from and after its passage, and it is so enacted.

Approved May 29, 1931.

Effective 90 days after adjournment.

[NOTE: H. B. No. 358 passed the House by a viva voce vote; passed the Senate, with amendments, by a vote of 31 yeas, 0 nays. House concurred in Senate amendments by a vote of 103 yeas, 0 nays.]